IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIUPR BENCH, JAIPUR

:JUDGMENT:

Rajasthan Vidyapeeth Kul Vs. RNGEIT & ors.

D. B. Civil Special Appeal (W) No.1065/2005 under Section 18 of the Rajasthan High Court Ordinance, 1949 against the judgment and order dated 1.9.2005 passed in S. B. Civil Writ Petition No.6884/2003.

Date of Judgment ::: January 5, 2007

PRESENT

Hon'ble Justice Mrs. Gyan Sudha Misra
Hon'ble Justice Mr. K. C. Sharma

Mr. S.P. Sharma, for the appellant.
Mr. Durga Shanker Sharma, respondent in person.

By the Court:

This appeal has been preferred against the order of the learned Single Judge who has been pleased to uphold the order of the Rajasthan Non-Government Educational Institutions Tribunal, which has set aside the order of termination of the respondent-teacher of the appellant-school.

In so far as the reinstatement part is concerned, it has been stated by the counsel for the appellant that the respondent-teacher has already been reinstated in service and the appeal has been filed

merely to contest the consequential benefits, which have been awarded to the respondent-teacher.

In so far as the reinstatement is concerned, the appellant has done no charity as the order of termination was set aside by the Tribunal since the same had not been approved by the Director, Education, which is a condition precedent for giving effect to such order of termination.

However, it was still contended that the appellant-institution ought to have been granted opportunity to seek approval of termination of the respondent-teacher by a competent authority.

But, this cannot be a subject matter of consideration at the appellate stage as this plea was never urged either before the Tribunal or before the learned Single Judge. What steps are going to be taken by the institution in future for other teachers, cannot be looked into by the appellate court as that will stand on its own merit and demerit.

The counsel for the appellant has not been able to address the court as to why consequential benefits should not have been awarded to the respondent-teacher when the order of termination was held to be bad and illegal. If an inquiry has been held in regard to the activities of the respondent-teacher, the same had to be legally examined by the Director, Education and approval had to be sought from him, which is the requirement of the rule. The appellant-institution having not done so, we fail to find any ground as to why consequential benefits should not be granted to the respondent-teacher in absence of any material before this Court.

The appeal, under the circumstance, stands dismissed.

[**K.C. Sharma**],**J.** [**Gyan Sudha Misra**],**J.**

/skm/